In the High Court of Punjab & Haryana at Chandigarh

FAO No.1137 of 1991

Date of decision: 23.8.2006

Piara Singh and another Vs. Baljit Singh and others

CORAM: HON'BLE MR. JUSTICE UMA NATH SINGH

Present: Mr. JBS Gill, Advocate, for the appellants

Mr. Sanjiv Pabby, Advocate, for the respondents

UMA NATH SINGH, J.

This FAO by the claimants arises out of an award dated 19.8.1991 passed by the learned Presiding Officer, Motor Accident Claims Tribunal, Hoshiarpur, in MACT Case No.21 of 7.8.1990, dismissing the claim petition of the appellants on the ground that from the material on record rash and negligent driving on the part of the driver of vehicle could not be proved. It appears that the accident took place in the area of Bharthala on 1.7.1990 at about 10 or 10.30 p.m. As per the claimants' case that their son Narinder Singh was working as car driver at Chandigarh, was tavelling in a Maruti Van No. CHZ-276 being driven by Baljit Singh. It also appears that he was travelling in the car on hire basis. The vehicle skidded and fell into the canal as the tyre of the car is stated to have burst. The

driver of the vehicle Baljit Singh somehow managed to swim out of the canal whereas the dead body of the deceased was recovered after five days. Learned counsel for the appellants submitted that from the DDR lodged by the driver of the vehicle, an inference can be drawn that since the car was not maintained properly, therefore, the tyer had burst. On a careful perusal of the impugned award so the record of the case , it appears that there is no mechanical examination report of the vehicle in question on record nor there is any site- plan to show that driving of the vehicle on the road was dangerous. That apart, the claimants did not file any criminal case against the driver of the vehicle. Admittedly, the claimants have been awarded a no fault liability compensation of Rs. 25,000/- as was admissible at the time of accident. There is dearth of material to accede to the prayer of the appellants for award of compensation. I am not inclined to interfere with the impugned award. Needless to say that merely on the basis of part this Court cannot award compensation. Accordingly, FAO (being No. 1137 of 1991), being devoid of merits, is hereby dismissed.

August 23, 2006 **(UMA NATH SINGH)**
dsg **JUDGE**